

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS  
WORCESTER DIVISION

DONALD P. SPEAKMAN, STEPHEN H.	§	
WEDEL and MARK L. ROBARE,	§	
Individually and On Behalf of All Others	§	
Similarly Situated,	§	
	§	
Plaintiffs,	§	
	§	Civil Action No. 4:04-cv-40077-FDS
v.	§	
	§	
ALLMERICA FINANCIAL LIFE INS. &	§	
ANNUITY CO., FIRST ALLMERICA	§	
FINANCIAL LIFE INS. CO., and	§	
ALLMERICA FINANCIAL CORP.	§	
	§	
Defendants.	§	

**UNOPPOSED MOTION FOR CUSTODY OF IMPOUNDED MATERIALS**

Plaintiffs, by and through their counsel, make this Unopposed Motion for Custody of Impounded Materials, and state as follows:

1. On October 5, 2005, the Court entered the Protective Order (Docket No. 45) which permitted filings under seal .
2. Pursuant the Protective Order, on November 17, 2005, Defendants filed their Motion to File Confidential Material Under Seal (Docket No. 56) which sought to file their Memorandum in Opposition to Plaintiffs' Motion for Class Certification ("Opposition Brief") and a two-volume Appendix filed in support of Defendants' Memorandum in Opposition to Plaintiffs' Motion for Class Certification ("Opposition Appendix").
3. The Court granted Defendants' Motion on November 18, 2005 and the Opposition Brief and Opposition Appendix were filed under seal (Docket No. 58).

4. Pursuant the Protective Order, on December 5, 2005, Plaintiffs filed their Assented-To Motion for Leave to File Confidential Material Under Seal and to File a Reply Memorandum in Excess of 15 Pages which sought to file, under seal, their Appendix of Exhibits to Reply Memorandum in Support of Plaintiff's Motion for Class Certification ("Reply Appendix").

5. The Court granted Plaintiffs' Motion on December 7, 2005 and the Reply Appendix was filed under seal (Docket No. 61).

6. Pursuant the Protective Order, on December 13, 2005, Defendants filed their Motion to File Confidential Material Under Seal (Docket No. 64) which sought to file their Sur-Reply Memorandum in Opposition to Plaintiffs' Motion for Class Certification ("Sur-Reply Brief") and accompanying materials under seal.

7. The Court granted Defendants' Motion on December 13, 2005 and the Sur-Reply Brief was filed under seal (Docket No. 65).

8. On March 18, 2008, the Clerk issued an Order (Docket No. 114) indicating that the Reply Appendix (incorrectly identified as Docket No. 65) would be placed into the public file unless an Appropriate Motion regarding future custody of the material is filed.

9. Pursuant to L.R. 7.2, Plaintiffs request that the Opposition Brief, Opposition Appendix, Reply Appendix, and Sur-Reply Brief not be placed into the public file, but, instead, remain confidential.

10. Good cause exists for maintaining the confidentiality of the materials. The sealed pleadings include highly sensitive and personal financial information including insurance policy numbers and death benefits, promissory note balances, checking account numbers, dates of birth, and social security numbers. See, e.g., Reply Appendix at Exhibits 2, 3, 10, 11, 14, 16, 22, and 23.

11. Pursuant to L.R. 7.2(c), Plaintiffs request that the post-impoundment custody be by their counsel.

WHEREFORE, Plaintiffs respectfully request the Court place the Opposition Brief, Opposition Appendix, Reply Appendix, and Sur-Reply Brief in the custody of their counsel and allow counsel ten (10) days to retrieve the sealed pleadings.

Dated this 4<sup>th</sup> day of April, 2008.

Respectfully submitted,

/s/ Robert W. Biederman

Stephen L. Hubbard

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ATTORNEYS FOR PLAINTIFFS

#### **CERTIFICATE OF CONFERENCE**

By my signature below, I certify that I personally conferred with Jared C. Miller of Wilmer Cutler Pickering Hale and Dorr LLP, concerning the foregoing and Mr. Miller stated that Defendants do not oppose this Motion.

/s/ David M. Grossman

DAVID M. GROSSMAN

**CERTIFICATE OF SERVICE**

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants on April 4, 2008.

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